

**Board Meeting Minutes  
January 24 & 25, 2002**

**Board for Professional Engineers and Land Surveyors  
Airtel Plaza Hotel  
7277 Valjean Avenue  
Van Nuys, California 91406  
(818) 997-7676**

**Thursday, January 24, 2002**

**Board Members Present:** Vince DiTomaso (President), Millicent Safran (Vice-President), Gregg Brandow, David Chen, James Foley, Kathryn Hoffman, Andrew Hopwood, and Stephen Lazarian

**Board Staff Present:** Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Nancy Eissler (Attorney General Liaison Analyst), David Brown (Special Assistant to the Executive Officer), Janece Sargis (Examination Analyst), Cindy Morris-Hoppe (Executive Analyst), and Debbie Thompson (Budget Analyst)

**Public Present:** See Attached

**1. Roll Call to Establish a Quorum**

The meeting was called to order at 1:15 p.m. Roll call was taken, and a quorum was established.

**2. Public Comment**

Mr. Tom Stout requested clarification as to how Board staff arrived at the cost per applicant for 18 different exams.

Mr. Vince DiTomaso stated that clarification on this issue would likely be needed in the future.

**ACTION:** Board staff will provide details as to how the actual cost per applicant is arrived at for each of the Board's 18 different exams.

**3. Closed Session**

The Board went into closed session at 1:30 p.m.

**4. Open Session to Announce the Results of Closed Session**

Ms. Christenson reported that the Board adopted the results of the take-home examination for the candidate who had previously passed the 8-hour portion of the examination and the Seismic Principles and Engineering Surveying examinations (as appropriate).

Ms. Christenson reported that the Board adopted the following passing cut scores for the October 2001 examinations:

- Geotechnical 454 out of 940
- Seismic Principles 150 out of 294
- Engineering Surveying 164 out of 287
- Agricultural 70 out of 100
- Chemical 70 out of 100
- Civil 70 out of 100
- Control Systems 70 out of 100
- Electrical 48 out of 80
- Fire Protection 70 out of 100
- Industrial 70 out of 100
- Manufacturing 70 out of 100
- Mechanical 70 out of 100
- Metallurgical 70 out of 100
- Nuclear (no applicants)
- Petroleum 70 out of 100

Ms. Christenson reported that the Board adopted the default decisions regarding Ali Reza Zakeri and Ronald Louis Warrecker; adopted the Stipulation regarding Marvin Wolff; and denied the Petition for Reconsideration in the Matter of Rupert Alen.

Ms. Christenson also reported that the Board discussed pending litigation as noticed.

**5a. Approval of the Minutes of the December 13 & 14, 2001 Board Meeting.**

**MOTION:** Mr. Foley/Mr. Hopwood moved to approve the minutes of the December 13 & 14, 2001 Board Meeting.

**VOTE:** 8-0, motion carried.

**5b. Approval of Candidates for Certification/Licensure. (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)**

**MOTION:** Mr. Hopwood/Dr. Chen moved to approve the candidates for licensure based on examination results approved in closed session.

**VOTE:** 8-0, motion carried.

**6. Approval of Delinquent Reinstatements.**

**MOTION:** Ms. Hoffman/Mr. Hopwood moved to approve the Delinquent Reinstatements as follows:

**Petroleum**

**1. Jeffrey S. Jordan**

Reinstate applicant's petroleum license once he takes and passes the Board's Laws and Rules Examination and pays all required delinquent renewal fees.

**Safety**

**1. Harold James A. Comeaux**

Reinstate applicant's safety license once he takes and passes the Board's Laws and Rules Examination.

**VOTE:** 8-0, motion carried.

**7. Comity and Temporary Authorization Applications.**

**MOTION:** Mr. Hopwood/Dr. Chen moved to approve the following Chemical applicant for licensure by waiving the second division examination (NCEES Chemical Engineering examination) because the applicant has the appropriate experience, has taken and passed an eight-hour NCEES PE examination, has taken and passed the take-home examination, and is licensed in another state.

**Joan P. Fox**

**VOTE:** 8-0, motion carried.

**MOTION:** Mr. Hopwood/Dr. Chen moved to approve the following Electrical applicants for licensure by waiving the second division examination (NCEES Electrical Engineering examination) because the applicants have the appropriate experience, have taken and passed both an 8-hour NCEES EIT examination, an 8-hour NCEES PE examination, are licensed in other states, and have taken and passed the take-home examination.

**Todd E. Moore**  
**Kevin C. Rettich**

**VOTE:** 8-0, motion carried.

**MOTION:** Mr. Hopwood/Dr. Chen moved to approve the following Mechanical applicants for licensure by waiving the second division examination (NCEES Mechanical Engineering examination) because the applicants have the appropriate experience, have taken and passed both an 8-hour NCEES EIT examination, an 8-hour NCEES PE examination, are licensed in other states, and have taken and passed the take-home examination.

**Bradley R. Ryan**  
**Brian A. Sheets**  
**Mark J. Wells**  
**Alan N. Wright**

**VOTE:** 8-0, motion carried.

**MOTION:** Mr. Hopwood/Dr. Chen moved to approve the following Mechanical applicant for licensure by waiving the second division examination (NCEES Mechanical Engineering examination) because the applicant has the appropriate experience, has taken and passed an 8-hour EIT examination, an 8-hour PE examination, is licensed in another state, and has taken and passed the take-home examination.

**Sat P. Salwan**

**VOTE:** 8-0, motion carried.

**MOTION:** Mr. Hopwood/Dr. Chen moved to withdraw approval of licensure for individuals for had not returned their take home exams prior to the December 2001 meeting.

**VOTE:** 8-0, motion carried.

**8. Temporary Authorization (Possible Action)**

The Board discussed seeking legislation to amend the laws regarding temporary authorization.

**MOTION:** Ms. Safran/Mr. Hopwood moved to seek legislation to repeal Section 8753, which allows for temporary authorization for land surveyors, and to direct staff to begin the rulemaking process to

adopt a regulation that sets forth the requirements for a temporary authorization as a professional engineer.

**VOTE:** A roll call vote was taken. 5-3, motion carried. Chen, Foley, Hoffman, nay.

Staff was directed to submit to the Board at the next Board meeting three recommendations for a timeframe defining the “duration of a project” and recommendations for a cost analysis/fee structure for the revised temporary authorization process.

#### **9. Delinquent Licensees (Possible Action)**

**MOTION:** Mr. Hopwood/Mr. Lazarian moved to adopt new sections of the Professional Engineers Act and Professional Land Surveyors’ Act, as follows:

- to require the taking and passing of the second division examination(s) for a license that is not renewed within six years of its expiration;
  - to provide for jurisdiction to investigate or discipline a license that has lapsed; and,
  - to require the following fee schedule:
    - \$160 to renew within 30 days of expiration
    - \$320 after two (2) years delinquent
    - \$640 after four (4) years delinquent
- and to direct staff to establish a proactive program to locate individuals who become delinquent.

**VOTE:** 8-0, motion carried.

#### **10. Amendments to Board Rule 407 (Fees) (Possible Action)**

**MOTION:** Mr. Hopwood/Dr. Chen moved to revise proposed fees included in the regulation package for Board Rule 407 to \$350 for PE/LS examinations and to \$100 for EIT/LSIT examinations and to direct staff to begin the rulemaking process to amend Board Rule 407.

**VOTE:** 8-0, motion carried.

**Friday, January 25, 2002**

**Board Members Present:** Vince DiTomaso (President), Millicent Safran (Vice-President), Gregg Brandow, David Chen, James Foley, Kathryn Hoffman, Andrew Hopwood, and Stephen Lazarian

**Board Staff Present:** Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Susan Ruff, (Deputy Attorney General), Nancy Eissler (Attorney General Liaison Analyst), David Brown (Special Assistant to the Executive Officer), Janeece Sargis (Examination Analyst), Cindy Morris-Hoppe (Executive Analyst), and Debbie Thompson (Budget Analyst)

**Public Present:** See Attached

**1. Roll Call to Establish a Quorum**

The meeting was called to order at 9:10 a.m. Roll call was taken, and a quorum was established.

**11. Adopt Board Rule 438 (EIT/LSIT Waiver) (Possible Action)  
[Note: This item will be discussed Friday after the Hearing]**

**MOTION:** Mr. Hopwood/Ms. Safran moved to adopt Board Rule 438.

**VOTE:** 8-0, motion carried.

**12. Examination/Qualifications**

**a. NCEES Policy of Distributing Mechanical Pencils for the April 2002 Examination (Possible Action)**

The Board discussed NCEES policy regarding the distribution of mechanical pencils for the April 2002 national exam. The distribution of these pencils is a security effort to ensure that laser pens which could be used to copy portions of the exam are not used by the candidates.

Board staff has sent a letter to NCEES expressing concerns regarding the use of mechanical pencils (i.e., pencil breaking, running out of lead, not having enough pencils for candidates, etc). However, a response has not yet been received.

The Board discussed the need for following NCEES's direction regarding the use of mechanical pencils as we have a contract with NCEES and have agreed to abide by their guidelines in giving the national exams. The Board asked staff to keep them informed on this issue.

**b. Change to Land Surveyor Licensure in South Carolina (Discussion)**

The Board held a discussion regarding South Carolina's decision to now license the practice of Geodetic, Photogrammetric and Geographic Information (GIS) Surveying.

The Board discussed that they should be aware of South Carolina's policy and the possibility of a need to license this practice in California in the future. The Board referred this issue to the Land Surveyor Technical Advisory Committee.

**13. Administrative**

**a. Fund Condition (Possible Action)**

Ms. Thompson reported that since the last Board meeting, the Board's expenditures for FY 2001/02 in the fund condition was adjusted for an increase in the retirement rate and an increase in the Attorney General hourly rate. These expenditures were also included for FY 2002/03 in addition to increases in costs for Office of Administrative Law, DCA and Statewide prorata.

**b. FY 2001/02 Budget (Possible Action)**

Ms. Thompson reported that she recently received the Board's December 2001 expenditure report. Projections based on this report indicate that the Board will have less savings at year-end than the projected \$57,530 reported in the Board agenda material. This is because there will be additional exam contract costs due to the increase in exam applications received to date. Additional savings will occur if the Board is unable to fill currently vacant positions due to the statewide hiring freeze.

**c. Re-Examinee Statistics (Possible Action)**

Ms. Thompson reported on alternatives for Board members to consider in deciding whether or not to increase fees for re-examinees of three times or more. These alternatives include: (1) increase the fee for re-examinees of three times or more; (2) increase the fee for re-examinees of three times or more who take the Board's most expensive exams (Geotechnical, Land Surveyor and Structural; (3) or limit to two the number of times an applicant can re-take an exam. Mr. Gary Duke indicated there may be a constitutional problem with Alternative #3. In summary, the Board would lose revenue if it were to charge an additional fee for re-examinees or limit the number of times a test could be taken.

The Board decided not to make any changes to existing fee structure for re-examinees.

**7. Temporary Authorization Applications**

**MOTION:** Mr. Hopwood/Mr. Lazarian moved to approve temporary authorization for Mr. Brett Cox and Mr. Michael Gardina.

**VOTE:** 6-1-1, motion carried. Ms. Hoffman nay; Ms. Safran abstained.

**14. Legislative**

**a. Discussion of Legislation for 2002, including but not limited to, AB269, AB535 (Possible Action)**

**MOTION:** Mr. Hopwood/Mr. Lazarian moved to support AB269.

**VOTE:** 8-0, motion carried.

**MOTION:** Ms. Safran/Mr. Hopwood moved to support SB1244.

**VOTE:** 8-0, motion carried.

**b. Status of Regulations**

Mr. Brown reviewed the information provided in the agenda packet.

**15. Enforcement**

**a. Enforcement Program Update**

Ms. Eissler advised the Board that Jacqueline Jenkins, the Enforcement Outreach Coordinator, was in the process of scheduling a meeting with the CELSOC Chapter in Angel's Camp for March.

**b. Development and Adoption of Regulations Regarding a Code of Professional Conduct and the Definitions of Negligence and Incompetence (Possible Action)**

After much discussion, including presentation of recommendations from the six Technical Advisory Committees, the Board directed staff to make the following changes and bring the Seventh (and Final) Draft to the March 2002 Board meeting for final approval:

- Change the opening paragraph to read as follows:  
To protect and safeguard the health, safety, welfare, and property of the public, every person who is licensed by the Board as a professional engineer/as a professional land surveyor or a professional civil engineer legally authorized to practice land



surveying, including licensees employed in any manner by a governmental entity or in private practice, shall comply with this Code of Professional Conduct. A violation of this Code of Professional Conduct constitutes unprofessional conduct and is grounds for disciplinary action pursuant to Section 6775/8780 of the Code.

- Change (a)(1) from “shall not violate” to “shall comply with” and change “work” to “professional services.”
- Change (b)(1) to read as follows:  
If a licensee provides professional services for two or more clients on a project or related projects, the licensee shall disclose in writing to those clients and project owners his or her relationship to those clients.
- Change (b)(2) from “which is substantial enough to influence” to “which may influence.”
- In (b)(4), remove the parenthetical and change “employee’s” to “licensee’s.”
- Change (c)(5) and (c)(1) to read as follows and make them (c)(1) and (c)(2):  
A licensee shall accurately and promptly represent to a prospective or existing client or employer the licensee’s qualifications or scope of responsibility in connection with projects or services for which the licensee is receiving or will receive compensation from that client or employer.  
  
A licensee shall accurately represent his or her scope of responsibility in connection with projects or services for which the licensee is claiming credit.
- Delete (e)(3).
- Change the definition in (e) to read as follows:  
As used in this section, “confidential information” means information identified as confidential by the licensee’s employer, prospective client, client, former client, or other related party.
- Change (f)(1) to read as follows:  
A licensee shall not misrepresent the completeness of the professional documents he or she submits to a governmental agency that the professional documents he or she submits for review are substantially complete for the specific purpose intended.

- Change (f)(2) to read as follows:  
A licensee shall not misrepresent the completeness of the professional documents he or she prepared to his or her client or other involved parties involved that professional documents he or she prepared are substantially complete for the specific purpose intended.

Ms. Eissler presented the information in the Board agenda packet regarding amending Board Rule 404, which contains the definitions of terms used in the Professional Engineers Act, the Professional Land Surveyors' Act, and the Board Rules, to include the definitions of negligence and incompetence, as discussed and tentatively approved by the Board at previous meetings. Ms. Eissler reminded the Board that the Sunset Review Committee had strongly urged the Board to adopt definitions of these terms. The Board decided to postpone further discussion of this item until the March 2002 meeting and directed that the information from the previous meetings be included in that agenda packet for review.

**c. Responsible Charge Definition and Possible Amendments to Board Rules 404.1 and 404.2 (Possible Action)**

Mr. Duke distributed a handout showing the proposed language to be added to Board Rules 404.1 and 404.2 to clarify what a licensee needs to do to be in responsible charge of professional engineering or land surveying work prepared by others. Mr. Duke advised the Board that he believed the current definition, as contained in the current Board Rules, does cover this issue, but that it will benefit from some clarifying language.

The Board decided to postpone further discussion of this item until the March 2002 meeting so that the members could review the language in more detail.

**16. Technical Advisory Committee Reports (Possible Action)**

**a. Land Surveying**

**1. Report on the January 24, 2002, LS TAC meeting.**

Ms. Safran reported on the LS TAC meeting.

Ms. Safran also reported that the LS TAC would like to meet more often and to hold the meetings the day before the Board meetings if possible.

**b. Civil/Geotechnical Engineering**

**1. Report on the January 24, 2002, CE & GE TAC meetings.**

Dr. Brandow reported on these joint TAC meetings.

**c. Mechanical**

**1. Report on the January 24, 2002, ME TAC meeting.**

President DiTomaso reported on the ME TAC meeting.

**2. Appointment of ME TAC Members.**

**MOTION:** Ms. Hoffman/Dr. Chen moved to approve the re-appointment of Mr. Taghi Alereza, P.E., Mr. Ira Silverman, P.E., and Mr. Daniel Strauss, P.E. for their second, two-year term as ME TAC Members.

**VOTE:** 7-0, motion carried. Mr. Hopwood was not present when vote was taken.

**d. Electrical Engineering**

**1. Report on the January 24, 2002, EE TAC meeting.**

President DiTomaso reported on the EE TAC meeting.

**e. Structural Engineering**

**1. Report on the January 24, 2002, SE TAC meeting.**

Dr. Brandow reported on the SE TAC meeting held jointly with the CE/GE TAC's.

**17. Liaison Reports (Possible Action)**

**a. ABET**

No report given.

**b. NCEES**

Ms. Christenson reported that she attended a NCEES Engineering Licensing Qualifications Task Force meeting on January 16, 2002.

Dr. Brandow reported that he attended a meeting in Lake Tahoe, CA regarding Structural Engineering issues across the country.

Ms. Christenson also reported that Ted Fairfield, President of NCEES, will be attending the March 2002 Board meeting.

**c. Technical and Professional Societies**

No report given.

**18. President's Report**

No report given.

**19. Executive Officer's Report**

**1. Administration Report**

**a. Executive summary report**

Ms. Christenson reported on the Executive Summary Report.

**2. Personnel**

**a. Hiring Freeze**

Ms. Christenson announced that David Brown would be leaving the Board staff to accept the appointment as the Executive Officer of the Court Reporters Board.

Ms. Christenson reported that there are 5 vacancies that we may not be able to fill due to the hiring freeze.

**3. Enforcement/Examination/Licensing**

**a. College Outreach**

Ms. Christenson reported that the next College Outreach will be Tuesday, January 29, 2002, in San Luis Obispo.

**4. Publications/Website**

**a. Website Activity**

Ms. Christenson advised the Board that the website activity statistics were included in the agenda packet.

**b. Bulletin**

Ms. Christenson reported that we will be contracting with California State University, Sacramento, through a master service agreement to have the Bulletin published due to the lack of technical knowledge of the current staff.

**5. Other**

**a. DCA Update**

Ms. Christenson reported that the Board will be working on the new Strategic Plan at the March 2002 Board Meeting.

**20. Approval of Board Travel (Possible Action)**

There was no Board Travel to be approved.

**21. Other Items Not Requiring Board Action**

**a. Next Board meeting: March 7 & 8, 2002, Radisson Hotel, Fisherman's Wharf, San Francisco, California.**

**22. Adjourn**

The Board adjourned at 1:25 p.m.

## **PUBLIC PRESENT**

Tom Stout  
Joseph Martin  
David K. Johnson, EE TAC Member  
Cliff Isah EE TAC Member  
Eugene Weatherby, CELSOC  
Tom Ladegaard, USD-CPIL  
Webster Owen, CE TAC Member  
Masood Omar, PECG  
Rich Ray, CLSA  
Ralph S. Ricketson, P.L.S., CalTrans  
Charles Helin, CSPE